BY WRONGFUL ACT, Sec. 124. The original tort is therefore held to be the only cause of action to support an action either by the deceased or his representative, and to enure to the representative subject to all of its infirmities and defences. *Michigan Central R. R. Co.* v. *Vreeland,* 227 U. S. 59, 70; *Hecht* v. *Ohio and Mississippi Ry. Co.,* 132 Ind. 507, 511; *Centofanti* v. *Pennsylvania R. R. Co.,* 244 Pa. 255, 262. Although there is but one cause of action, it is generally held that "the act does not transfer the right of action of his death, it is clear that anything that would bar the deceased's right of of action on different principles". *Blake* v. *Midland Ry. Co.,* 18 Q. B. 93, 110; *Michigan Central R. R. Co.* v. *Vreeland, supra; Mason* v. *Union Pacific Ry. Co.,* 7 Utah 77, 81; *Hamilton* v. *Jones,* 125 Ind. 176, 179. Where the statute expressly provides that the right of action of the representative is dependent on the existence of the right of action of the deceased at the time of his deah, it is clear that anything that would bar the deceased's right of action would also bar the representative's, including the statute of limitations. *Fowlkes* v. *Nashville and Decatur R. R. Co.,* 56 Tenn. 829; *Littlewood* v. *Mayor of N. Y.,* 89 N. Y. 24, 28; *Read* v. *Great Eastern Ry. Co.,* L. R. 3, Q. B. 555; *Louisville and St. Louis R. R. Co.* v. *Clarke,* 152 U. S. 230, 235; *Southern Bell Telephone Co.* v. *Cassin,* 111 Ga. 575, 576. But where, as in Pennsylvania, the right of action under the statute does not depend upon whether the deceased could have sued, had he lived, an action thereunder would be barred only when the cause of action itself had been extinguished. The defence of the statute of limitations in the instant case seems, then, to have been correctly held untenable, since it merely barred the remedy and not the cause of action of the deceased. Though such a construction might be said to contravene the original purpose and intention of the death acts; yet the main principle underlying the new right of action, which the statute gives to the representative, is that of compensating the dependents, and this is realized.

DEDICATION—RIGHT OF WAY OVER RAILROAD TRACKS.—P seeks an injunction to restrain the use of a way across its railroad tracks, which D city claims to have been dedicated by P, the evidence showing that the public had used the way for over twenty years, that at times P had placed a watchman there to protect the public from accident, and that accommodation trains had stopped there to discharge passengers. *Held,* D had no right of way across the tracks, the evidence not being sufficient to evince an intention to dedicate. *City of Atlanta* v. *Georgia R. and Banking Co.* (Georgia, 1919), 98 S. E. 83.

It is quite uniformly held that a railroad company may dedicate land for a public street across its right of way. ANGELL, HIGHWAYS, Sec. 134; ELLIOTT, RAILROADS, Sec. 425; ELLIOTT, ROADS AND STREETS, Sec. 146; 9 AM. AND ENG. ENC. 33; note, 8 L. R. A. (N. S.) 966; *Northern Pacific R. Co.* v. *Spokane,* 56 Fed. 915; *People* v. *Eel River and Eureka R. R. Co.,* 98 Cal. 665, 670; *Central R. R. Co. of N. J.* v. *Bayonne,* 52 N. J. L. 503. Such a dedication, to be valid, must not interfere materially with the performance of the company's charter duties. *Matthews* v. *Seaboard Air Line Ry.,* 67 S. Car. 499, 508; *Augusta* v. *Georgia R. R. and Banking Co.,* 98 Ga. 161, *semble.* In the

determination of what will constitute an intention to dedicate, the courts have recognized a distinction between private and railroad property. A right of way in the public is so inconsistent with the rights and obligations of the railroad company that it cannot be presumed to have consented to a dedication, except on the production of clear, unequivocal evidence, amounting virtually to an express dedication. *Central R. R.* v. *Brinson,* 70 Ga. 207, 241; *Louisville and Nashville R. R. Co. v. Childers,* 155 Ky. 652; *Ill. Central R. R. Co.* v. *People,* 49 Ill. App. 538; *Hast* v. *Railroad Co.,* 52 W. Va. 396. In the last case the court said, "a dedication by a railroad company, to bind the corporation, must be made by the directors, or recognized by them or by such public use as to justify the inference of ratification". In some cases the evidence has been held to be sufficiently strong and conclusive to warrant an implication of consent. *Union Co.* v. *Peckham,* 16 R. I. 64; *Lake Erie and Western R. R. Co.* v. *Boswell,* 137 Ind. 336; *St. Paul, Minneapolis, and Manitoba Ry. Co.* v. *Minneapolis,* 44 Minn. 149. Although the evidence in the principal case strongly tended to show an intention to dedicate, yet the court held that the use was merely permissive, because the railroad company could not be presumed to have dedicated the way, since it would thereby suffer a loss of the use of one-third of its yards, at a cost of several hundred thousand dollars.

INTERSTATE COMMERCE—INTOXICATING LIQUORS—REED AMENDMENT.—The defendant Hill was indicted under the Reed Amendment (Comp. St. 1918, 8739a, 10387a-10387c) which prohibited transportation of liquor into a state forbidding its manufacture and sale. The laws of West Virginia, into which Hill brought one quart of liquor from Kentucky, forbade the manufacture and sale thereof, but allowed a person to have one quart a month brought in for personal use. On a motion to quash the indictment, it was *held,* that the power of Congress to regulate commerce may in proper cases take the character of prohibition, the act in question being a proper exercise of its power. *United States* v. *Hill* (U. S., 1919), 39 Sup. Ct. Rep. 143.

That the power of Congress to regulate interstate commerce is supreme, has often been declared, *Gibbons* v. *Ogden* (1824), 9 Wheat 1; *Brown* v. *State of Maryland* (1827), 12 Wheat 419; *Cooley* v. *Board of Port Wardens* (1851), 12 Howard 299; *Railroad Co.* v. *Husen* (1877), 95 U. S. 465; *Bowman* v. *Chicago &c. Ry. Co.* (1888), 125 U. S. 465. And when Congress exercises its authority, state laws at variance must give way, *Houston &c. Ry. Co.* v. *Texas &c. Ry. Co.* (1914), 234 U. S. 342; *Minnesota Rate Cases* (1913), 230 U. S. 352, Ann. Cas. 1916A, 18. It has further been held that this power to regulate means that Congress has the power to prohibit the importation of that which is injurious to the public morals, as in the Lottery or White Slave Cases, *Lottery Case* (1903), 188 U. S. 321, 356-358; *Hoke* v. *United States* (1913), 227 U. S. 308. And under the taxing power Congress may tax the manufacture of colored oleo out of existence, thus preventing the use of the commodity in interstate commerce, and discouraging manufacture, even though the main reason for the tax was the prevention of a fraud on the public. *McCray* v. *United States* (1904), 195 U. S. 27, 54. In the *Child*